

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

John Chern Shieh, M.D.)

Case No. 800-2014-002521

**Physician's and Surgeon's)
Certificate No. A55285)**

Respondent)
_____)


DECISION

The attached Stipulated Settlement And Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 18, 2017.

IT IS SO ORDERED July 20, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
**Michelle Bholat, Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINA L. SEIN
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-9444
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **JOHN CHERN SHIEH, M.D.**
13 **1024 Mission Street, Suite A**
South Pasadena, CA 91030

14 **Physician's and Surgeon's Certificate**
15 **No. A 55285,**

16 Respondent.

Case No. 800-2014-002521

OAH No. 2016120724

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Christina L. Sein,
24 Deputy Attorney General.

25 2. Respondent John Chern Shieh, M.D. (Respondent) is represented in this proceeding
26 by attorney Kevin J. Jorgensen, Esq., whose address is: Jorgensen Law Office, APC, 1217 W.
27 Whittier Blvd., Montebello, CA 90640.

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3. On or about November 22, 1995, the Board issued Physician's and Surgeon's Certificate No. A 55285 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-002521, and will expire on May 31, 2017, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-002521 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 1, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-002521 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-002521. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2014-002521 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if he ever petitions for modification of these terms, or if a subsequent Accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2014-002521 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

///

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 **A. PUBLIC REPRIMAND**

6 **IT IS HEREBY ORDERED THAT** Physician's and Surgeon's Certificate No. A 55285
7 issued to John Chern Shieh, M.D., shall be and is hereby publicly reprimanded pursuant to
8 California Business and Professions Code section 2227, subdivision (a)(4). This Public
9 Reprimand, which is issued in connection with Accusation No. 800-2014-002521, is as follows:

10 "You failed to adequately manage and document the medical care and treatment that you
11 provided to patient K.S., as more fully described in Accusation No. 800-2014-002521."

12 **B. EDUCATION COURSE**

13 Within 60 calendar days of the effective date of this Decision, Respondent shall submit to
14 the Board or its designee for its prior approval, educational program(s) or course(s), not less than
15 30 hours in the area of cosmetic laser surgery. The educational program(s) or course(s) shall be
16 Category I certified. The educational program(s) or course(s) shall be at Respondent's expense
17 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
18 licensure.

19 Respondent shall submit a certification of successful completion to the Board or its
20 designee not later than 15 calendar days after successfully completing the educational program(s)
21 or course(s). Respondent shall participate in and successfully complete the educational
22 program(s) or course(s) within one (1) year of enrollment.

23 Respondent's failure to enroll, participate in, or successfully complete the courses within
24 the designated time period, unless the Board or its designee agrees in writing to an extension of
25 that time, shall constitute general unprofessional conduct and may serve as grounds for further
26 disciplinary action.

27 **C. MEDICAL RECORD KEEPING COURSE**

28 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a

1 course in medical record keeping approved in advance by the Board or its designee. Respondent
2 shall provide the approved course provider with any information and documents that the approved
3 course provider may deem pertinent. Respondent shall participate in and successfully complete
4 the classroom component of the course not later than six (6) months after Respondent's initial
5 enrollment. Respondent shall successfully complete any other component of the course within
6 one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense
7 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
8 licensure.

9 A medical record keeping course taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the course would have
12 been approved by the Board or its designee had the course been taken after the effective date of
13 this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the course, or not later than
16 15 calendar days after the effective date of the Decision, whichever is later.


17 Respondent's failure to enroll, participate in, or successfully complete the medical record
18 keeping course within the designated time period, unless the Board or its designee agrees in
19 writing to an extension of that time, shall constitute general unprofessional conduct and may
20 serve as grounds for further disciplinary action.

21
22
23 [Signatures on following page]
24
25
26
27
28

1 ACCEPTANCE

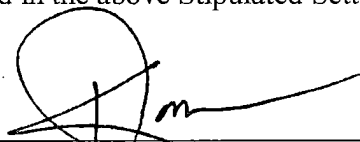
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Kevin J. Jorgensen, Esq. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: May 9, 2017


9 JOHN CHERN SHIEH, M.D.
Respondent

10 I have read and fully discussed with Respondent JOHN CHERN SHIEH, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: May 9, 2017


14 KEVIN J. JORGENSEN, ESQ.
Attorney for Respondent

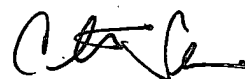
15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 Dated: 5/10/17

Respectfully submitted,

20 XAVIER BECERRA
Attorney General of California
21 JUDITH T. ALVARADO
Supervising Deputy Attorney General

22 
23 CHRISTINA L. SEIN
24 Deputy Attorney General
25 Attorneys for Complainant

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28 12675130.doc

Exhibit A

Accusation No. 800-2014-002521

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINA L. SEIN
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-9444
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov. 1 20 16
BY B. Firdaus ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-002521

12 **John Chern Shieh, M.D.**
13 **1024 Mission Street, Ste. A**
South Pasadena, CA 91030

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A55285,**

16 **Respondent.**

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about November 22, 1995, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A55285 to John Chern Shieh, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
26 and will expire on May 31, 2017, unless renewed.

27 ///

28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2234 of the Code states, in pertinent part:

5 "The board shall take action against any licensee who is charged with unprofessional
6 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
7 limited to, the following:

8 "...

9 "(b) Gross negligence.

10 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
11 omissions. An initial negligent act or omission followed by a separate and distinct departure from
12 the applicable standard of care shall constitute repeated negligent acts.

13 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
14 that negligent diagnosis of the patient shall constitute a single negligent act.

15 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
16 constitutes the negligent act described in paragraph (1), including, but not limited to, a
17 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
18 applicable standard of care, each departure constitutes a separate and distinct breach of the
19 standard of care.

20 "...

21 5. Section 2266 of the Code states:

22 "The failure of a physician and surgeon to maintain adequate records relating to the
23 provision of services to their patients constitutes unprofessional conduct."

24 **BACKGROUND**

25 6. At all times relevant to the allegations contained herein, Respondent was a licensed
26 physician and surgeon practicing in the area of non-invasive cosmetic medicine, regenerative
27 medicine, skin rejuvenation, and laser and ultrasound assisted liposuction.

28 ///

1 7. On or about September 6, 2011, patient K.S.,¹ then a 51-year-old male, consulted
2 with Respondent for the removal of lipoma located at the back of his head. K.S.'s history included
3 hyperthyroidism, for which he was seeing a physician, and atrial fibrillation, for which K.S. chose
4 not to take blood thinners. Respondent's assessment and plan are "LipoLite of lipoma of occiput."
5 K.S. signed a consent form, however, there was no mention about the potential of a burn
6 pertaining to the type of laser used by Respondent. In addition, there was no verbal discussion of
7 potential risks and complications.

8 8. On September 9, 2011, K.S. returned to Respondent for LipoLite removal of the
9 lipoma. The only documentation in the medical record of the visit is a procedure note. There are
10 no vital signs recorded in the procedure note, no indication of the number of joules or energy that
11 was delivered, and no mention of temperature monitoring. There are start and end times for the
12 infiltration of Lidocaine with epinephrine and a start and end time indicating a 15 minute treatment
13 with LipoLite laser with 2 ½ zones treated. Respondent notes sloughing of the skin at the left
14 upper part of the lipoma near an old scar and the epithelium is noted to have a slight blister
15 formation. Respondent monitored tissue temperature with his hand and by K.S.'s reaction to
16 various levels of pain.

17 9. On the second follow-up visit with Respondent, on or about September 14, 2011,
18 Respondent notes mild edema and erythema of the site and surrounding area. On the next follow
19 up visit, on or about September 19, 2011, there is drainage from the wound and Respondent notes
20 the central area with a dark firm scabbed layer with pink erythema at the lower left, with no
21 abscess or seroma, and mild tenderness. K.S. returned on or about September 28, 2011, reporting
22 that the wound has been leaking for approximately five days. K.S. was continued on wound care.

23 10. At the next follow-up visit, on or about October 5, 2011, Respondent notes a hard
24 scabbed area with a surrounding white area. Respondent referred K.S. to a wound care clinic.

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26 ///

27
28 ¹ Individuals are referred to by initial to protect their privacy.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 11. Respondent's license is subject to disciplinary action under section 2234, subdivision
4 (b), of the Code in that he was grossly negligent in his care and treatment of K.S. The
5 circumstances are as follows:

6 12. The standard of care requires a history and physical examination to be performed at
7 the initial consultation. In the event of medical issues, relevant vital signs should be taken when
8 indicated, preoperative medical clearance should be obtained from the patient's primary care
9 physician or related medical specialist.

10 13. The standard of care requires that prior to and during a surgical procedure, such as the
11 removal of a scalp lipoma, vital signs should be taken and recorded on a flow sheet in the patient's
12 chart. Vital signs should be recorded every 5 - 10 minutes during a procedure with local
13 anesthesia.

14 14. The standard of care requires a physician using a laser to be knowledgeable in regard
15 to the particular laser wavelength(s), and the energy and treatment parameters of the laser. When
16 using a laser for laser lipolysis, it is the standard of care to use local anesthesia consisting of
17 varying concentrations of lidocaine, epinephrine, and bicarbonate, which provides anesthesia to the
18 tissue being treated, and reduces bleeding, bruising, and risk by virtue of the vasoconstrictive effect
19 of epinephrine. The vasoconstriction caused by epinephrine increases the anesthetic effect of
20 lidocaine by prolonging the time lidocaine remains in the tissues.

21 15. Respondent's care and treatment of K.S. as set forth above in Paragraphs 7 through
22 10, include the following acts and/or omissions which constitute extreme departures from the
23 standard of care:

24 A. The failure to obtain vital signs and preoperative medical clearance in a patient
25 with known hyperthyroidism and atrial fibrillation.

26 B. The failure to obtain vital signs prior to and during a surgical procedure on a
27 patient with known hyperthyroidism and atrial fibrillation.

28 ///

1 C. The parameters, or lack thereof, being used to monitor laser energy and tissue
2 temperature.

3 16. Respondent's acts and/or omissions as set forth in Paragraphs 12 through 15, above,
4 whether proven individually, jointly, or in any combination thereof, constitute gross negligence
5 pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline exists.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

8 17. Respondent's license is subject to disciplinary action under section 2234, subdivision
9 (c), of the Code in that he committed repeated negligent acts in his care and treatment of K.S.
10 The circumstances are as follows:

11 18. The allegations of the First Cause for Discipline are incorporated herein by reference
12 as if fully set forth.

13 19. The standard of care when performing surgery is to discuss the indications,
14 alternatives, risks, and complications with the patient, in addition to providing a written consent
15 form detailing the potential risks and complications of the procedure.

16 20. Although lasers are used to remove subcutaneous lipomas elsewhere in the body,
17 given the thickness of scalp tissue, the presence of hair follicles that can be permanently damaged
18 by laser energy, and the limitations of monitoring internal tissue temperature with a laser, it is not
19 within the standard of care to use a laser on the scalp for this purpose.

20 21. The standard of care requires a physician to keep accurate and complete medical
21 records, which should reflect a preoperative assessment, operative records, and postoperative
22 assessment on the day of a surgical procedure.

23 22. When a physician is operating a laser, it is important to be cognizant of the amount of
24 energy being delivered and the tissue response. The tissue response is dependent on laser energy
25 (joules) delivered as a function of time. When encountering drainage from a post-surgical wound,
26 the standard of care requires infection and seroma to be considered in the differential diagnosis. A
27 draining surgical wound should be cultured.

28 ///

1 23. Respondent's care and treatment of K.S. as set forth above in Paragraphs 7 through
2 10, include the following acts and/or omissions which constitute repeated negligent acts:

3 A. The failure to obtain vital signs and preoperative medical clearance in a patient
4 with known hyperthyroidism and atrial fibrillation.

5 B. The failure to obtain vital signs prior to and during a surgical procedure on a
6 patient with known hyperthyroidism and atrial fibrillation.

7 C. The parameters, or lack thereof, being used to monitor laser energy and tissue
8 temperature.

9 D. There was no discussion with the patient prior to the procedure, or at any time,
10 concerning the indications, alternatives, risks, and complications of using a LipoLite laser to
11 remove a scalp lipoma. The written consent form is lacking in information regarding the potential
12 for burns, hair loss, and skin loss with the use of this type of laser.

13 E. Given the inability to accurately assess the delivery of laser energy to the deeper
14 tissues of the scalp and the potential risks, the use of a laser to remove a scalp lipoma.

15 F. The lack of medical records detailing the procedure that was performed and the
16 condition of the patient.

17 G. The failure to recognize a blister during a laser procedure and a scab or eschar in
18 the postoperative period as representing a possible full-thickness skin loss, as well as failure to
19 obtain cultures from a draining wound.

20 24. Respondent's acts and/or omissions as set forth in Paragraphs 18 through 23, above,
21 whether proven individually, jointly, or in any combination thereof, constitute repeated negligent
22 acts pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Adequate and Accurate Records)**

25 25. Respondent's license is subject to disciplinary action under section 2266 of the Code
26 in that he failed to maintain adequate and accurate records of his care and treatment of patient K.S.
27 The circumstances are as follows:

28 ///

26. Complainant refers to and, by this reference, incorporates Paragraphs 7 through 10, above, as though set forth fully herein.

27. Complainant refers to and, by this reference, realleges the allegations set forth in Paragraphs 19, 21, 23(D), and 23(F).

28. Respondent's acts and/or omissions as set forth in Paragraphs 26 through 27, above, whether proven individually, jointly, or in any combination thereof, constitute failure to maintain adequate and accurate records, pursuant to section 2266 of the Code. Therefore, cause for discipline exists.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A55285, issued to John Chern Shieh, M.D.;

2. Revoking, suspending or denying approval of John Chern Shieh, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering John Chern Shieh, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: November 1, 2016

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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